

**UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	Ruediger Eiermann et al.
Application Number:	10/574,714
Filing Date:	03/05/2007
Group Art Unit:	1711
Examiner:	Jason Paul Riggleman
Title:	DISHWASHER COMPRISING A DRYING APPARATUS

Mail Stop Appeal Brief - Patents  
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**APPEAL BRIEF**

Pursuant to 37 CFR 1.192, Appellants hereby file an appeal brief in the above-identified application. This Appeal Brief is accompanied by the requisite fee set forth in 37 CFR 1.17(f).

Table of Contents

(1) REAL PARTY IN INTEREST .....	3
(2) RELATED APPEALS AND INTERFERENCES .....	3
(3) STATUS OF CLAIMS.....	3
(4) STATUS OF AMENDMENTS .....	3
(5) SUMMARY OF CLAIMED SUBJECT MATTER .....	3
(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	5
(7) ARGUMENT.....	5
(8) CONCLUSION.....	9
CLAIMS APPENDIX .....	10
EVIDENCE APPENDIX .....	13
RELATED PROCEEDINGS APPENDIX.....	14

(1) REAL PARTY IN INTEREST

The real party in interest is BSH Bosch und Siemens Hausgeräte GmbH.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 12-22 are pending in the application and are the basis for the appeal. Claims 1-11 were canceled in the April 5, 2006 Preliminary Amendment. Claim 12 is independent.

(4) STATUS OF AMENDMENTS

The pending claims identified in the Claims Appendix correspond to the claims entered following the submission of the July 8, 2010 Amendment.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

The present invention as embodied in independent claim 12 relates to a drying apparatus, such as a part of a dishwasher, that allows wet washed dishes located in the washing container of the dishwasher to be dried quickly from an economic and hygienic point

of view. In an exemplary embodiment, the drying apparatus for drying washed dishes is disposed inside the dishwasher and circulates exclusively the air located in a washing container of the dishwasher.

Independent claim 12 recites a dishwasher comprising: a washing container 1; and a drying device connected in an air circulating manner with the washing container 1 such that air is circulated from the washing container to the drying device and from the drying device to the washing container with the circulated air acting to dry items disposed in the washing container, the drying device including (page 6, lines 8-10 and Fig. 1):

a suction port 2 for introducing the air from the washing container 1 into the drying device (page 6, lines 8-10),

a blow-out port 3 for discharging the air from the drying device into the washing container 1 (page 6, lines 10-11),

a conveying section 5 between the suction port 2 and the blow-out port 3 (page 6, lines 9-16 and Fig. 1), and

means (e.g., fan 4 – Fig. 1) for effecting movement of air such that air that has been introduced into the drying device via the suction port 2 is conveyed through the conveying section enroute to subsequent discharge of the air through the blow-out port 3, the conveying section 5 including a condensing section 11 having at least one wall and the at least one wall of the conveying section 11 operating as a condensing surface 8 on which the moisture contained in the air is deposited (page 6, lines 8-13 and Fig 1).

The present invention reduces the air moisture present in the washing container during the drying process by removing the moisture from the air located in the washing container during its passage through the drying device. A dishwasher with a system for drying washed items according to the invention thus has the advantage that both the drying time and also the energy expenditure required for drying the washed items is reduced.

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(a) Whether claims 12-15 and 17-22 are anticipated under 35 U.S.C. §102(b) by Deiss et al. (French Patent Publication No. FR2491322).

(b) Whether claim 16 is unpatentable under 35 U.S.C. § 103(a) over Deiss et al. '322 in view of Deiss et al. (French Patent Publication No. FR2491319).

(7) ARGUMENT

(a) Claims 12-15 and 17-22 are NOT anticipated under 35 U.S.C. §102(b) by Deiss et al. (French Patent Publication No. FR2491322).

The present invention claims a dishwasher including a drying device with features that reduce the air moisture present in the washing container during the drying process by removing the moisture from the air located in the washing container during its passage through the drying device. As part of this, the present invention includes a feature, for

example, as recited in claim 13 where “the condensing surface is in heat-conducting contact with an outer wall of the dishwasher.”

In this manner, as soon as the air from the washing container is conveyed by the fan through the conveying section of the drying device, the flexible wall of the conveying section constructed as a condensing surface is in contact with the outer wall of the dishwasher. Appellants respectfully refer to the description of the condensing surface in the present specification from page 3, line 25 to page 4, line 5. In the present invention, in order to ensure a direct connection between the condensing surface and the outer wall of the dishwasher without an interposed air gap and therefore good heat conduction to the housing of the dishwasher, the condensing surface is preferably made of a flexible material.

The grounds of rejection state that Deiss et al. teach a dishwashing machine 10 having a washing container 11 and a drying device (citing Figure 2). The grounds of rejection state that the Deiss et al. conveying section “is in a sidewall” of the dishwasher (between the outer cabinet and washing tank) (citing the English machine translation). As such, the grounds of rejection conclude that since the condensing surface is not thermally insulated from the outer wall of the dishwasher -- it is in “heat-conducting contact”. This argument is reinforced in the Advisory Action.

Appellants respectfully submit that MPEP § 2131 provides that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical

invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Moreover, “[e]very element of the claimed invention must be literally present, arranged as in the claim.” *Id.* In the present case, the grounds of rejection have not established that each element of the claims is disclosed in the cited references. In particular, the term “heat-conducting *contact*” with an outer wall of the dishwasher is not disclosed or suggested by Deiss et al. The interpretation of “heat-conducting contact” as provided in the Office Action is not what one of ordinary skill in the art would have understood at the time of invention as described in the present specification and as shown in the drawings. In the Deiss et al. device, as shown particularly in Figure 2, the “condensing section” does not contact an outer wall of the dishwasher nor is there disclosure that it does.

Further, in the Response to Arguments, the grounds of rejection state that the term heat-conducting contact is broad and vague and does not necessitate a direct physical contact, only that heat is conducted from one element to the other in some way. Even an air gap would conduct heat (absent any thermal insulator); therefore, the rejection is maintained. Appellants respectfully submit that the claim recites that the condensing surface is in heat-conducting contact with an outer wall of the dishwasher as noted. Accordingly, Appellants respectfully submit that the present invention distinguishes from Deiss et al.

(b) Claim 16 is NOT unpatentable under 35 U.S.C. § 103(a) over Deiss et al. ‘322 in view of Deiss et al. (French Patent Publication No. FR2491319).

The grounds of rejection acknowledge that Deiss et al. '322 does not teach a "mixing vane" in the interior of the conveying section as recited in claim 16. However, the grounds of rejection state that Deiss et al. '319 teach the use of vanes 28 to provide a tortuous path for the air to increase the contact time in the condensing section to increase the precipitation of the water in the humid air, and that it would have been obvious at the time of the invention to modify Deiss et al. '322 with Deiss et al. '319 to create a means to increase the efficiency of the condenser to achieve the expected result. Appellants respectfully submit that claim 16 is at least allowable based on its dependency on claim 12, the deficiencies thereof not made up for by Deiss et al. '319.



(8) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

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March 15, 2011

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## CLAIMS APPENDIX

1-11. (Canceled)

12. (Rejected) A dishwasher comprising:

- a washing container; and

- a drying device connected in an air circulating manner with the washing container such that air is circulated from the washing container to the drying device and from the drying device to the washing container with the circulated air acting to dry items disposed in the washing container, the drying device including:

- a suction port for introducing the air from the washing container into the drying device,

- a blow-out port for discharging the air from the drying device into the washing container,

- a conveying section between the suction port and the blow-out port, and

- means for effecting movement of air such that air that has been introduced into the drying device via the suction port is conveyed through the conveying section enroute to subsequent discharge of the air through the blow-out port, the conveying section including a

condensing section having at least one wall and the at least one wall of the conveying section operating as a condensing surface on which the moisture contained in the air is deposited.

13. (Rejected) The dishwasher according to claim 12, wherein the condensing surface is in heat-conducting contact with an outer wall of the dishwasher.

14. (Rejected) The dishwasher according to claim 12, wherein the condensing surface is formed of a material comprising at least one of a film of plastic, a film of metal having a selected one of aluminium content and no aluminum content, and a material other than a film of plastic or a film of metal.

15. (Rejected) The dishwasher according to claim 12, wherein the condensing section is substantially thermally insulated with respect to the washing container.

16. (Rejected) The dishwasher according to claim 12, wherein the condensing section has at least one mixing vane projecting into the interior of the conveying section.

17. (Rejected) The dishwasher according to claim 12, wherein the drying device has a discharge system by which means the water deposited in the condensing section is drained off.

18. (Rejected) The dishwasher according to claim 12, and further comprising a heating device disposed downstream of the conveying section and upstream of the blow-out port relative to the direction of flow of air through the drying device for heating air before the air enters into the washing container after its passage through the drying device.

19. (Rejected) The dishwasher according to claim 12, wherein the means for effecting movement of air includes a fan disposed downstream of the condensing section in relation to the direction of flow of air through the drying device.

20. (Rejected) The dishwasher according to claim 19, and further comprising a heating device disposed downstream of the conveying section and upstream of the blow-out port relative to the direction of flow of air through the drying device for heating air before the air enters into the washing container after its passage through the drying device and a program control for controlling the operation of the fan and the heating device.

21. (Rejected) The dishwasher according to claim 12, wherein the suction port of the drying device is disposed in an upper area of the washing container and the blow-out port of the drying device is disposed in a lower area of the washing container.

22. (Rejected) The dishwasher according to claim 12, wherein the conveying section is disposed in a selected one of a side wall of the dishwasher and a door of the dishwasher.

EVIDENCE APPENDIX

None

RELATED APPEALS APPENDIX

None